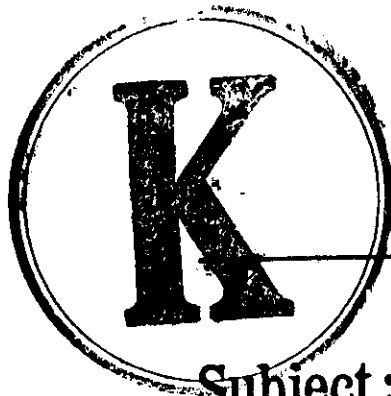


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1942.

File No. *O*, Identification of Prisoners 1/42



Legal DEPARTMENT

A BRANCH

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Subject:—

opinions under the

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Opinions under
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1. O.N. No. 7007
Dt. 28-8-1942

Whether term "found guilty" in
Sec 6 of Bm Mental Schools
Act 1929 is included in
Re. term "convicted" in...

Dr/1/5

27
7-5-56

Office of the R.L.A.

The question for the consideration of the R.L.A. is whether the term "found guilty" in section 6 of the Bombay Borstal Schools Act, 1929, is included in the term "convicted" in section 3 of the Identification of Prisoners Act, 1920

2. It is true that the words "found guilty" in section 6 of the Bombay Borstal Schools Act, 1929, were deliberately substituted for the word "convicted" so as to save the young delinquent from the stigma attaching to a conviction (Bombay Legislative Council Proceedings Vol) XXVII, P. 747; R.L.A.'s opinion No 3603 dated the 13th July 1932) The legal meaning of the expression "to convict" is to find guilty of an offence usually by a judgement of Court or by the verdict of a jury. The Full Bench of the Bombay High Court has held that there is no distinction between the expression "found guilty" in section 6 of the Bombay Borstal Schools Act and "convicted" under the Criminal Procedure Code (see 35 B.L.R. 1018; 58 Bom 37).

Consequently whatever may have been the intention of the Legislature in using the words "found guilty" instead of "convicted" in section 6 of the Bombay Borstal Schools Act, the High Court's authoritative interpretation will have to be followed. A person who is found guilty under section 6 of the Bombay Borstal Schools Act would therefore be deemed to be "convicted" within the meaning of section 3 of the Identification of Prisoners Act 1920.

Sd/- P.N.M.

27/8

Remembrancer of Legal Affairs.

U.R. to H.D. No. 7007, dated the 28th August 1942

Mr/1/5